

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SCANSOFT, INC.)	
)	
)	
Plaintiff,)	
v.)	Civil Action No. 04-10840-PBS
)	
ART ADVANCED RECOGNITION)	
TECHNOLOGIES, INC.)	<u>ORAL ARGUMENT REQUESTED</u>
)	
Defendant.)	
)	

DEFENDANT’S MOTION TO DISMISS THE COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(6) and the Local Rules of this Court, Defendant ART Advanced Recognition Technologies, Inc. (“ART”) moves to dismiss the complaint for failure to state a claim upon which relief can be granted.

In support of its motion, ART states as follows:

1. The plaintiff, ScanSoft, Inc. (“ScanSoft”), has filed an complaint against ART for infringement of U.S. Patent No. 6,501,966 (“the ‘966 patent”).
2. The prior art describes speech recognition technology that is embedded in mobile devices, and therefore, if the ‘966 patent is construed to cover embedded speech recognition technology, then the ‘966 patent is invalid. On the other hand, if the ‘966 patent is construed to not cover embedded speech recognition technology, then ART’s products cannot infringe the ‘966 patent. Because ART cannot be liable for infringement in either case, Scansoft’s complaint against ART should be dismissed.
3. ART has filed contemporaneously its memorandum of law in support of this motion to dismiss the complaint.

WHEREFORE, Defendant ART Advanced Recognition Technologies, Inc. , moves this court for an order:

1. dismissing the complaint for failure to state a claim against Defendant under Fed. R. Civ. P. 12(b)(6);
2. providing such other and further relief as this Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), ART hereby requests that this Court set this motion for oral argument. ART believes that oral argument would assist the Court in considering the motion. ART respectfully requests that the motion be set for hearing as soon as practicable.

Respectfully submitted,

ART ADVANCED RECOGNITION
TECHNOLOGIES, INC.

By its Counsel,

/s/ Steven M. Bauer

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Dated: June 16, 2004

Certification of Counsel

The undersigned counsel certifies, pursuant to Local Rule 7.1(A), that it has conferred with counsel for Plaintiff ScanSoft, Inc. and has attempted in good faith to resolve or narrow the issues presented by this motion.

/s/ Steven M. Bauer

Steven M. Bauer

Certificate of Service

I hereby certify that on June 16, 2004, a true and correct copy of the foregoing document was served upon opposing counsel by use of the Court's ECF system.

/s/ Jeremy P. Oczek

Jeremy P. Oczek